



STATE OF NEW JERSEY
Board of Public Utilities
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Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED PETITION OF)
SQF, LLC FOR APPROVAL OF A CHANGE OF) ORDER
CONTROL AND MANAGEMENT SERVICES)
AGREEMENT) DOCKET NO. TM19040449

Parties of Record:

James H. Laskey, Esq., Norris McLaughlin, P.A., on behalf of Petitioners
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On April 5, 2019, SQF, LLC ("SQF" or "Petitioner") submitted a verified petition to the New Jersey Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:2-51.1 requesting Board approval of a transaction, whereby an investment by SDC Tilson Investor, LLC ("SDC") into SQF will result in a transfer of control of SQF (the "Transaction"). Petitioner also seeks approval pursuant to N.J.S.A. 48:3-7.1, of a Services Agreement between SQF and Tilson Technology Management, Inc. ("Tilson") to provide direct staffing, general and administrative services, and site development services. Following closing of the Transaction, the same services will continue to be offered in New Jersey at the same rates, terms, and conditions to SQF customers.

BACKGROUND

SQF is a Maine limited liability company with its principal office in Portland, Maine. SQF is currently a direct, wholly owned subsidiary of SQF Holdco. According to the petition, at the time of SQF's certification in New Jersey, it was a wholly owned subsidiary of Tilson. On March 12, 2019, Tilson contributed SQF, LLC to a newly created wholly-owned holding company, SQF HoldCo, LLC ("SQF HoldCo"). On March 12, 2019, Tilson distributed shares in SQF HoldCo, LLC to its investors pursuant to a Distribution Agreement. As a result of these actions, SQF (and SQF HoldCo) is no longer a wholly-owned subsidiary of Tilson. However, SQF's ultimate owners (*i.e.*, Tilson's investors) remain the same post spin-off and, pursuant to the terms of the Services Agreement, Tilson is the exclusive provider of all personnel and services to SQF. In

New Jersey, SQF is authorized to provide local exchange and interexchange telecommunications services. See In the Matter of the Verified Petition of SQF, LLC d/b/a Tilson for Authorization to Provide Local Exchange and Interexchange Telecommunications Services throughout the State of New Jersey, Docket No. TE15060727 (August 19, 2015).

SDC is a Delaware limited liability company with a principal office in New York, New York. SDC is wholly-owned by funds managed by SDC Capital Partners, LP, a New York City-based private investment firm focused on information technology and communications infrastructure.

Tilson is a Maine corporation with headquarters in Portland, Maine. Tilson designs, engineers, permits, and builds fiber optic and wireless infrastructure throughout the United States. Tilson currently has 500 employees based in 20 offices throughout the country, including Clifton, New Jersey.

The granting of competitive local exchange ("CLEC") authority conveys certain rights and privileges upon SQF, which are reserved for the provision of facilities-based landline services. While CLECs may also provide other telecommunications services, such as wireless, small cell or distributed antenna systems, these service offerings are beyond the scope of Board jurisdiction and the granting of CLEC authority. Specifically, the Board granting of CLEC authority is limited to the provision of competitive facilities-based local and interexchange services. To the extent that a CLEC provides non-regulated telecommunications services, the CLEC benefits, rights or privileges are not applicable to those non-regulated services.

DISCUSSION

Pursuant to the terms of an Investment Agreement between SDC and SQF dated February 27, 2019, after obtaining the necessary regulatory approvals, SDC will make a series of cash investments in SQF (the "Transaction"). Following the Transaction, SDC will then own a majority of SQF, LLC, with the remainder held by SQF's current owner, SQF HoldCo. On March 12, 2019 SQF and Tilson also entered into a Services Agreement, whereby Tilson will provide design, engineering, installation maintenance, asset management and related services related to network infrastructure assets, including utility poles for small cell wireless equipment colocation, cell towers and fiber assets. The petition states that this agreement effectively replicates the relationship between SQF and Tilson when SQF was a wholly-owned subsidiary of Tilson. SQF will have no employees of its own, but instead will rely on the personnel and expertise of Tilson to conduct its operations. Tilson will provide direct staffing to SQF through dedicated personnel. In addition to these dedicated personnel, Tilson will also provide general and administrative services to SQF. These services include accounting, administrative services, tax and insurance management, information technology services, marketing, regulatory support, and executive leadership.

Petitioner states that the Transaction is in the public interest and will have no adverse impact on SQF's customers. SQF's customers will continue to provide services at the same rates, terms and conditions as currently in effect and the Transaction will not result in any discontinuance, reduction, loss or impairment of service to customers. The Petitioners state that the technical and managerial resources available to SQF will continue to be managed and operated by the same officers and personnel of Tilson, and following the Transaction, now supplemented by management of SDC and its parent. SQF will also have access to additional financial resources through its relationship with SDC. These additional resources will allow SQF to strengthen its competitive position to the benefit of its customers and the telecommunications marketplace.

By letter dated April 30, 2019, the New Jersey Division of Rate Counsel submitted comments, stating that it does not oppose the approval of Petitioners' requests in this matter.

FINDINGS AND CONCLUSIONS

Pursuant to N.J.S.A. 48:2-51.1(a), the Board shall evaluate the impact of an acquisition of control of a public utility on competition, on the rates of ratepayers affected by the acquisition of control, on the employees of the affected public utility or utilities, and on the provision of safe and adequate utility service at just and reasonable rates. The Board must be satisfied that positive benefits will flow to customers and the State of New Jersey and, at a minimum, that there are no adverse impacts on any of the criteria delineated in N.J.S.A. 48:2-51.1 as set forth above. N.J.A.C. 14:1-5.14(c). Also, pursuant to N.J.S.A. 48:3-7 and N.J.S.A. 48:3-10, the Board must determine whether the public utility, or a wholly owned subsidiary thereof, may be unable to fulfill its pension obligations to any of its employees.

After a careful review of this matter, the Board is satisfied that positive benefits will flow to customers based upon the record, and that the combined enterprise would not be able to exercise market power to raise prices above competitive levels or exclude competitors from the marketplace. The Board, therefore, **FINDS** that the proposed transaction will not have any negative impacts on competition. The Board additionally **FINDS** that there will be no negative impact on rates or the present provision of safe, adequate and proper service since Petitioners' New Jersey customers will continue to receive the same services at the same rates and under the same terms and conditions and the provision of service quality on competitive offerings is in the public interest. The Board notes that Petitioner will continue to be managed and operated by the same officers and personnel of Tilson, therefore the Board **FINDS** that the proposed transaction will have no impact on employment.

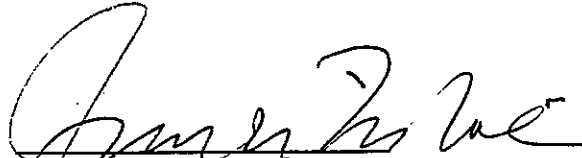
As for the Services Agreement, SQF seeks Board approval pursuant to N.J.S.A. 48:3-7.1 which requires the Board to approve certain contracts between public utilities and corporations or persons owning or controlling utility stock. Based upon the structure of the contract, it is prudent that we undertake such a review. Based upon the foregoing, the Board reviewed the Agreement and determined that it replicates the agreement that SQF originally had when SQF was a direct wholly-owned subsidiary of Tilson and does not disadvantage any party; therefore, the Board **APPROVES** the Agreement as filed without modification.

Accordingly, the Board **FINDS** that the proposed transaction is consistent with the applicable law, is not contrary to the public interest and will have no material impact on the rates of current customers, or on New Jersey employees. The Board also **FINDS** that the proposed transaction will have no impact on the provision of safe, adequate and proper service, and will positively benefit competition. Therefore, after investigation, having considered the record and exhibits submitted in this proceeding, the Board **HEREBY AUTHORIZES** Petitioners to complete the proposed transaction.

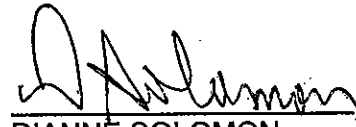
This Order shall be effective August 17, 2019.

DATED: 8/7/19

BOARD OF PUBLIC UTILITIES
BY:

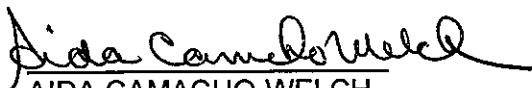

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UPENDRA J. CHIVUKULA
COMMISSIONER


ROBERT M. GORDON
COMMISSIONER

ATTEST: 
AIDA CAMACHO-WELCH
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public Utilities.

**IN THE MATTER OF THE VERIFIED PETITION OF SQF, LLC FOR APPROVAL OF A
CHANGE OF CONTROL AND MANAGEMENT SERVICES AGREEMENT
DOCKET NO. TM19040449**

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